

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
LITTLE SNAKE FIELD OFFICE**

**Response to 30 Day Public Comments
February 2014 Oil and Gas Lease Sale
DOI-BLM-CON010-2013-0049EA
Attachment F**

Response to Rocky Mountain Wild

Comments:

Greater Sage-Grouse:

Parcels 6718, 6724, 6728, 6733, 6735, 6738 and 6743 are in greater sage-grouse Preliminary General Habitat based on Colorado Parks and Wildlife 2012 data. Parcels 6718, 6724, 6728, 6732, 6733, 6735, 6738 and 6743 are within 4 miles of a lek site based on COGCC 2008 data.

The EA acknowledges that:

In accordance with BLM CO IM 2010-028 “BLM Colorado will continue to defer fluid mineral lease nominations in core sage grouse habitat until management prescriptions and strategies outlined in species conservation plans and potential impacts to local sage grouse populations as summarized in recent/existing research studies have been evaluated and/or adopted through RMP revisions or amendments. It is the policy of the BLM Colorado State Office to defer leasing of core Sage Grouse habitats until FO Plan Revisions have been completed, as these documents detail significant new information on Sage Grouse not addressed in our current plans.

EA at 8. However, the leasing of the above listed parcels violates this mandate not to lease in core sage grouse habitat. Preliminary general habitat are areas that this species requires during its lifecycle. Disruption of these areas will negatively impact the species and push it further towards ESA listing. Page 35-36 of the EA discuss these parcels and the portions of the parcels that would be considered sage-grouse habitat. At the least, BLM should defer those portions of these parcels with protective stipulations attached to the remaining adjacent portions. Fragmenting and disrupting sage-grouse habitat greatly impacts these birds.

The March 2010 USFWS decision that listing the greater sage-grouse is “warranted but precluded,” establishes the urgent need to develop and implement substantive conservation measures between now and 2015, when the Service will reconsider the status of the bird. This finding establishes that efforts to date, including the use of outdated timing and seasonal stipulations as proposed for core area parcels not deferred are inadequate.

BLM has taken proactive measures in recent months, launching the regional strategy that focuses on the conservation of sage-grouse and the protection of their habitat. Scoping for the Rocky Mountain Region populations for BLM’s range-wide planning process was conducted earlier this year. But the DEIS is still several months out. At this point in time, a conservative approach to grouse conservation must defer to the Technical Team recommendations.

Leasing large acreage of important sage-grouse habitat, prior to the completion of regional conservation planning efforts, will push the species closer to a full listing and must therefore be avoided. Pending final decisions on RMP amendments and the regional planning process that

apply the recommendations of the Technical Team Report, BLM should proceed with caution and avoid any additional leasing in occupied habitat.

The introduction of the Technical Team Report recognizes that “Anthropogenic habitat impacts and lack of regulatory mechanisms to protect against further losses provided the basis for warranting listing under the Endangered Species Act (ESA) in 2010 (75 FR 13910).” Report at 4. The Report states that it seeks to provide “the latest science and best biological judgment to assist in making management decisions.” Id. at 5. As such, the Report is vital to proposed actions such as the potential leasing. BLM’s failure to consider the Report requires deferral of the protested parcels.

Response: Colorado Parks and Wildlife (2012) recently updated greater sage-grouse habitat as reflected in preliminary general habitat and preliminary priority habitat. The term “core” habitat has been replaced by the term PPH. Nineteen parcels were identified as being located in Preliminary Priority Habitat for Greater Sage-Grouse, as identified by Colorado Parks and Wildlife (CPW). In accordance with BLM CO IM 2012-0430-028, all parcels in PPH were deferred from leasing. The Parcels that are being offered in this lease sale are in PGH, which is **not** considered ~~greater sage-grouse “core” habitat (“core” habitat as defined by BLM CO IM 2010-028 are to have the those areas of~~ highest conservation value ~~to greater sage-grouse~~). In PGH, protective measures developed in the LSFO RMP (October 2011), have been attached to the leases where appropriate; see Attachment C. Management recommendations in the Technical Team Report apply primarily to PPH.

Comment: The draft EA’s Range of Alternatives is too narrow. The Draft EA contains only two alternatives: a “proposed action alternative” and “no action” alternative. Draft EA at 10-11. This range of alternatives is not consistent with the National Environmental Policy Act (NEPA), however, which requires BLM to “[r]igorously explore and objectively evaluate all reasonable alternatives” to proposed federal actions. 40 C.F.R. § 1502.14(a). Nor does it comply with Instruction Memorandum (IM) 2010-117, which directs BLM to develop “alternatives to the proposed action that may address unresolved resource conflicts.” IM 2010-117 at III.E; see also BLM NEPA Handbook at 6.6.1 (recommending that for “externally generated” actions, such as leasing proposed by the oil and gas industry, BLM evaluate a “proposed action” alternative, a “no action” alternative and an alternative that includes “changes BLM makes to the proponent’s proposal.”).

Response: RMW citation of 40 CFR 1502.14(a) applies to environmental impact statements. For an EA level analysis, the appropriate citation is 40 CFR 1508.9(b), which states that EAs “shall include brief discussions...of alternatives as required by section 102(2)(E)...”. Section 102(2)(E) of the NEPA provides that agencies of the Federal Government shall “study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.”

The LSFO identified an additional alternative in Section 2.3, which would lease all nominated parcels that were in conformance with the RMP. As explained in this section, this alternative was eliminated from further analysis due to inconsistency with existing policy and connection to ongoing planning efforts.

While suggesting that the BLM consider “a third alternative to address “unresolved resource conflicts” associated with the proposed action and greater sage-grouse”, RMW did not provide any specific suggestions as to what they would like to see addressed in this third alternative, nor did they identify the “unresolved resource conflicts”.

In making its decision as to what parcels to offer for competitive leasing, BLM is free to select elements from each of the alternatives. BLM analyzed a no-action alternative in which none of the parcels under consideration would be offered for lease. As this alternative subsumes possible alternatives in which any combination of the parcels under consideration might not be leased, BLM is not required to separately analyze alternatives that would exclude specific parcels from leasing. Biodiversity Conservation Alliance, 183 IBLA 97, 124-25 (2013).

In addition, while outside persons or entities may nominate parcels for consideration for leasing, the proposed action to lease 9 of the 28 nominated parcels is an internally generated action. It does not require any modifications to the “proponent’s proposal” because there is no external proponent.

Comment: In the final EA, BLM must consider “alternatives to the proposed action that may address unresolved resource conflicts.” Many other field offices are evaluating such alternatives in leasing EAs, and are typically designating one of those alternatives as the agency’s “preferred” alternative. See 40 C.F.R. § 1502.14(e) (requiring BLM to identify a “preferred alternative” in NEPA documents). BLM should do the same here, as well as in all future leasing EAs.

Response: The CEQ regulations at 40 CFR 1502.14(e) direct that an EIS “...identify the agency’s preferred alternative or alternatives...” There is no such requirement for an EA; however, the LSFO BLM identified the Preferred Alternative in section 2.2.2. Under this alternative, only 9 of the 28 nominated parcels would be offered for lease. The parcels listed in Appendix B all would be deferred due to the concern that Preliminary Priority Habitat for Greater Sage Grouse (an ESA candidate species) as identified by CPW is identified within the parcels and because the BLM is currently amending the Little Snake RMP to address the management of Greater Sage Grouse habitat, including areas identified as Preliminary Priority Habitat. The leasing of the deferred parcels could be analyzed in a future leasing EA when these resource concerns have been addressed.